

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

ORDER NO. 87-165

ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY

CITY AND COUNTY OF SAN FRANCISCO  
SAN FRANCISCO, SAN FRANCISCO COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Board), finds, pursuant to California Water Code Section 13323, that:

1. The discharger owns and operates a wastewater system serving the city. The system includes sewers, pump stations, and treatment plants.
2. The discharger is in the process of constructing improvements to its wastewater system to reduce the frequency of combined sewer overflows during wet weather. One of these projects, the Division Street Sewer Connection (C-5B), necessitated a large excavation near the upper end of Mission Creek, tributary to San Francisco Bay.
3. On March 6, 1987, baywater from Mission Creek flooded the C-5B excavation and entered the city's collection system at the adjacent pump station. The channel created by this baywater leakage allowed untreated sewage to discharge from the city sewer to Mission Creek at lower low tide the same day.
4. Despite reasonable efforts by the discharger to seal off the channel, baywater leakage and raw sewage discharges continued through March 11, 1987. During this six-day period, an estimated 6 million gallons of untreated sewage was discharged to Mission Creek.
5. This discharge violated prohibitions A.1 and A.3 in Board Order No. 84-27 and prohibitions A.1 and A.2 in Order No. 84-28 (NPDES permits for Southeast treatment plant discharge and wet-weather discharges from Bayside overflow structures, respectively). Both Board Orders prohibit untreated sewage discharges from the city's collection system, except for certain rainfall-related overflows. The discharge was not the result of wet weather.
6. The discharge had both observed and unquantifiable impacts on water quality in Mission Creek. It caused water-contact recreation objectives for coliform bacteria to be exceeded for over a week. It also depressed dissolved oxygen levels in the upper creek below the water quality objective for aquatic habitat for several days. The discharge created a condition of pollution and nuisance, and posed a threat to public health, in particular for the up to 40 houseboat


residents at Mission Creek.

7. The city and its agents were aware of the C-5B site conditions that led to the March 6 Baywater leakage prior to that date. The city should have anticipated the potential adverse effects of such leakage and should have taken appropriate steps during design and construction to reduce this risk.
8. The discharger took prompt corrective action, and the Board therefore did not consider issuing a Cleanup and Abatement Order.
9. On July 10, 1987, Complaint No. 87-078 was issued for Administrative Civil Liability due to the discharger's violation of the above-cited prohibitions in Board Orders No. 84-27 and 84-28.
10. The Executive Officer, in Complaint No. 87-078, proposed that administrative civil liability be imposed by the Regional Board in the amount of \$100,000 pursuant to Section 13350 of the California Water Code for negligently discharging or causing or permitting waste to be deposited where it was discharged to waters of the State. The proposed liability has not been paid, and the right to hearing has not been waived.
11. The discharger has proposed mitigation to offset part of the proposed liability, in correspondence to the Executive Officer. The discharger has offered to spend \$60,000 to investigate soil toxicity and prepare a site clean-up plan for about 15 acres of state park lands at Yosemite Cove, in the southeast portion of the city. This mitigation proposal is acceptable to Regional Board staff but has not yet been approved for submittal by the city.
12. This action is an order to enforce waste discharge requirements adopted by the Board. It is therefore exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code (CEQA) pursuant to Section 15321 of the Resources Agency Guideline.
13. The Board on September 16 and December 16, 1987, after due notice to the discharger and other affected persons, conducted a public hearing at which the discharger appeared and evidence was received concerning the discharge.

IT IS HEREBY ORDERED, PURSUANT TO WATER CODE SECTION 13323 that the City and County of San Francisco is civilly liable for this violation and shall pay administrative civil liability in the amount of \$100,000, of which \$60,000 is suspended provided that the discharger carries out the mitigation project described in the December 7, 1987, letter from the Executive Officer to the city. The discharger shall indicate in writing within 30 days of this Order whether the discharger will carry out the mitigation

project or pay the full amount of liability. Payment of liability shall be made within 30 days of the date of this Order to the State Water Pollution Cleanup and Abatement account.

I, Roger B. James, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on December 16, 1987.

A handwritten signature in cursive script, appearing to read "Roger B. James", is written over a horizontal line.

ROGER B. JAMES  
Executive Officer